

Indiana's Judicial System

General Background

Indiana's Constitution divides the state government into three branches: the Legislative, the Executive, and the Judicial. The Constitution provides that the judicial power of the State of Indiana is vested in a Supreme Court, a Court of Appeals, circuit courts, and any other courts that the General Assembly chooses to establish.

(<http://www.in.gov/legislative/ic/code/const/art7.html>)

Traditionally, Indiana's trial court system has been organized on a county basis as established by legislation for specific counties. As required in the Constitution, the state has been divided into circuits based on county lines. If a county's population is relatively small, two counties may be joined into a single circuit. There are only 2 of these type circuits still in existence.

Additional levels of trial courts were created by the Legislature as local populations and needs grew. Superior and county courts are examples of legislatively created courts. The Tax Court is another court created by the Legislature, but it is an appellate court, not a trial court. In general, superior and circuit courts have general jurisdiction, while county courts are more limited in the matters they address.

In recent years, there has been a concerted effort to uniform the record keeping for courts throughout Indiana. As a result, Indiana now has a uniform case number system for every case filed in the state, a uniform schedule of retention for court records, uniform microfilming standards, and a uniform record-keeping process mandated for every trial court in the state.

All Indiana counties have circuit courts. In addition, many counties have superior courts, county courts, or both. Marion County (which includes the city of Indianapolis) is the only county with distinct small claims court and St. Joseph County (which includes the city of South Bend) has the only specialized probate court.

Some cities might also create town or city courts. These courts typically handle traffic related cases. In some jurisdictions city and town court judges are not required to be attorneys.

The Indiana Supreme Court: <http://www.in.gov/judiciary/supreme/>

According to Article 7 section 2 of the Indiana Constitution, the Supreme Court must consist of between four and seven justices. (<http://www.in.gov/legislative/ic/code/const/art7.html>)

Traditionally, the Court has five justices, one of whom is the Chief Justice. The current members of the Court are: Chief Justice Randall T. Shepard and Justices Brent E. Dickson, Frank Sullivan, Theodore R. Boehm, and Robert D. Rucker, Jr. Biographies of the sitting justices can be found at <http://www.in.gov/judiciary/supreme/bios.html>.

The Supreme Court is responsible for many duties other than hearing cases. Some of the tasks assigned solely to the Court by the state constitution include: admitting qualified persons to

practice law in Indiana; disciplining and disbarring Indiana lawyers; making sure lower courts are hearing appropriate cases; hearing appeals from defendants sentenced to death and from the denial of post-conviction relief in which the sentence was death; and cases where a state or federal statute has been declared unconstitutional. The Court may also hear any case, on petition, involving substantial questions of law, great importance, or emergency.

The justices of the Supreme Court are appointed by the Governor. The names of suitable candidates are provided to the Governor by a special judicial nominating commission. After an initial two-year appointment, a justice's name appears on the regular election ballot. Voters simply designate "Yes" or "No" when asked if the indicated justice should be retained in office. Once the necessary endorsement from the public is received, justices serve in ten-year terms.

The Indiana Court of Appeals: <http://www.in.gov/judiciary/appeals/>

The Court of Appeals celebrates its 100th birthday in 2001, but it has only been a constitutional court since a revision of the state constitution in 1970. Article 7 section 5 directs that the state be divided into districts and that each district has three judges.

(<http://www.in.gov/legislative/ic/code/const/art7.html>) Currently the Court of Appeals has five districts and 15 judges. The judges choose their own chief judge, and each district elects a presiding judge. (see <http://www.in.gov/legislative/ic/code/title33/ar2.1/>) Information about the court, its schedule, and biographies of the current judges can be found at <http://www.in.gov/judiciary/appeals/>.

The Court of Appeals has no original jurisdiction except to review directly final decisions of certain administrative agencies as authorized by Supreme Court rules. It has jurisdiction over all appeals from lower courts that are not taken directly to the Supreme Court.

Appeals Court judges, like those who serve on the Supreme Court, are appointed by the Governor from a list of suitable candidates submitted by the Judicial Nominating Committee. They must be retained by the voters after an initial two-year term, and then again once every ten years.

The Indiana Tax Court: <http://www.in.gov/judiciary/tax/>

The Indiana Tax Court was created on July 1, 1986. This special appellate level court has only one judge. The Tax Court judge is chosen in the same manner as those serving on the Court of Appeals and the Supreme Court. (<http://www.in.gov/legislative/ic/code/title33/ar3/ch5.html>)

The Tax Court has exclusive jurisdiction in tax appeals originating from cases that arise under the state's tax laws and which are appeals of a final determination made by designated agencies including: the Department of State Revenue or the State Board of Tax Commissioners. The Tax Court, like the Court of Appeals and the Supreme Court, is located in Indianapolis. Taxpayers appearing before this court, however, may select to have hearings in Allen, Jefferson, Lake, Marion, St. Joseph, Vanderburgh, or Vigo County.

The Tax Court also maintains a small claims docket for processing claims for refunds from the Department of Revenue that do not exceed \$5000 and for appeals of final determination of assessed value made by the State Board of Tax Commissioners that do not exceed \$45,000 in one year. Appeals from the Tax Court go directly to the Supreme Court.

Circuit Courts

As directed by the Indiana Constitution, the state is divided into 88 single county circuits and 2 two county circuits. (Article 7 section 7: <http://www.in.gov/legislative/ic/code/const/art7.html>) Ohio and Dearborn Counties share a circuit, as do Jefferson and Switzerland Counties. There are a total of 96 circuit court judges.

The circuit courts have unlimited trial jurisdiction, unless another court is assigned exclusive or concurrent jurisdiction. The circuit courts also have appellate jurisdiction in appeals from lower courts (mainly city and town courts). In areas without county level courts, the circuit court generally establishes small courts to hear cases concerning minor offenses such as: misdemeanors, ordinance violations, civil suits involving less than \$3000, and all Class D felonies. (Indiana Code: <http://www.in.gov/legislative/ic/code/title33/ar4/ch3.html>) Class D felonies are the lowest level of felony charges.

Except in Vanderburgh County, all circuit court judges are elected every six years by the voters of each circuit. In Vanderburgh County the judge is elected in a non-partisan election.

Superior Courts

The system of superior courts is highly variable in both its organization and jurisdiction throughout the state. These courts are established by the General Assembly. They are courts of general jurisdiction, but like circuit courts have appellate jurisdiction from lower courts. Some counties have separate superior courts, and some integrate them into a unified county court system.

Superior courts, like circuit courts, are charged with establishing small claims and minor offense divisions if no county court system exists.

In all but four counties superior court judges are elected at a general election for a six-year term. In Lake and St. Joseph County, superior court judges are initially appointed by the Governor to a six-year term, and then are re-appointed on “yes—no” ballots. Vanderburgh Superior Court judges, like the circuit court judge, are elected in non-partisan elections. In Allen County the superior court judges are elected at the general election, but on separate non-partisan ballots. In Marion County potential judges run in the primary with a party affiliation for one of eight spots for each party. At the General Election, the top 15 vote-getters are elected to the court.

Probate Courts

The only remaining distinct probate court in Indiana is in St. Joseph County. A probate court is charged with attending to matters related to the settlement/validity of wills, appointment of

guardians, assignees, executors, adoptions, etc. This court also has exclusive juvenile jurisdiction. The St. Joseph County voters select the probate judge at a general election for a six-year term.

County Courts

The Indiana County Court system was established on January 1, 1976. In recent years there has been a move towards re-structuring these courts into superior courts with small claims/misdemeanor divisions. County courts have original and concurrent jurisdiction in all civil cases relating to contract, tort (a civil wrong rather than a criminal one.), or landlord/tenant issues where the damages do not exceed \$10,000. Like circuit courts, county courts also handle Class D felonies, misdemeanors and infractions of local ordinances. Civil cases involving amounts up to \$3000 are sent to a small claims docket. County courts may also conduct preliminary hearings in felony cases. Appeals from the county courts go to the Indiana Court of Appeals.

The county courts are not allowed to exercise any jurisdiction over cases involving injunctive relief (the issuing of an order by the court to stop someone from doing something, sometimes called restraining orders), liens on real estate, paternity, juveniles, probate, or marital matters.

The county judges are elected by the voters of the county or counties which the court serves for six-year terms.

Local Courts

City and town courts are created by local ordinance, however, the city or town must give notice to the Division of State Court Administration when creating or abolishing local courts. Currently there are 47 city courts and 25 town courts in Indiana.

The jurisdiction of these local courts varies depending on the size of the city. All city courts have jurisdiction over city ordinance violations, misdemeanors, and infractions. They also have jurisdiction over civil cases where the amount in dispute is less than \$500. Local courts are prohibited from ruling in actions concerning slander, libel, real estate foreclosure, or matters relating to estates or guardianship. Lake County has given its local courts jurisdiction in cases concerning amounts up to \$3000 and in criminal cases where the fine is not more than \$1000 or one year in prison.

City and Town courts are not courts of record. If a case is appealed it is tried de novo (anew) in the applicable Superior or Circuit court. Judges in city and town courts are elected for four-year terms by their local voters. Some counties require that these judges be attorneys.

Small Claims Courts

Only Marion County has a distinct small claims court; it has one division for each of its nine townships. This court shares jurisdiction with the circuit and superior courts in civil cases where the claim does not exceed \$6000, in actions for possession of property where the value does not

exceed \$6000, and in actions between landlord and tenant in which the past due rent does not exceed \$6000.

Small claims court judges are elected by the voters of each township. The judges are elected for four-year terms.

Note:

This information is intended to provide teachers and students with some preliminary information regarding the organization of Indiana's legal system. It is not meant to be an exhaustive or complete resource.

Additional information about the operation of the judicial system can be found in numerous locations, some suggestions are provided below.

The Indiana Constitution (<http://www.in.gov/legislative/ic/code/const/>)

The Indiana Code (<http://www.in.gov/legislative/ic/code/>)

The official homepage of the judicial system (<http://www.in.gov/judiciary/>)

The Faces of Justice

(a video available for on-line viewing at <http://www.in.gov/judiciary/education/faces.html>)